

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner's son's treatment includes regular OT services. The petitioner represents that she was able to

find only one OT provider in her area that was qualified to treat her son. That OT provider accepts Medicaid, but at the time she began treating the petitioner's son she was not enrolled as an MVP provider. The petitioner represents that before her son began OT services, she informed the provider that MVP was her primary insurance.

3. The OT provider has billed Medicaid for all the services she has provided to the petitioner's son. DVHA initially denied Medicaid coverage because the provider had not obtained primary coverage through MVP. At some point three or four months after the OT services began, the provider enrolled with MVP, and since that time Medicaid has covered the portion of the patient's OT services that have not been covered by MVP as the primary insurer.¹

4. The issue in this case concerns the three or four months of OT services that were rendered before the provider enrolled in MVP, for which DVHA has denied Medicaid coverage. It is not clear whether the provider has formally billed the petitioner for these services.

5. The petitioner does not allege that DVHA was aware in advance of the provider's initial lack of enrollment in

¹ This coverage includes payment of the high deductibles imposed by the petitioner's MVP plan.

MVP. DVHA has informed the Board and the petitioner that, under the circumstances, it believes the provider will be in violation of her Medicaid provider agreement if she attempts to bill the petitioner for these services. The petitioner is justifiably concerned, however, that she will be placed in an awkward position with the provider, perhaps jeopardizing her son's continuing treatment, if the provider is not paid for these services.

ORDER

The Department's decision is affirmed.

REASONS

The Medicaid regulations specifically preclude payments for "items and services covered by private health insurances". Welfare Assistance Manual (W.A.M.) § M151.1(H). DVHA represents that all Medicaid recipients are provided with a handbook that includes the following instruction:

"If you have other insurance, it is important that you always follow the rules of your insurance plan. Go to providers who are in your insurance plan and in our programs. Your provider will bill your other insurance first. Our programs may help to cover what your other insurance does not.

DVHA further represents that all Medicaid providers are informed of the following provision of "Provider Responsibility" in § 7105.3 of the regulations:

"When the recipient has other medical insurance, the benefits available must be applied prior to payment by Medicaid."

Thus, it is DVHA's position in this matter that it was the OT provider's responsibility to have known, and to have informed the petitioner in advance, that Medicaid coverage would be contingent on the provider accepting the petitioner's MVP coverage, and billing MVP first. This is not to allege or imply that the provider intentionally misled the petitioner, only that the provider made a serious mistake in not verifying the petitioner's eligibility for Medicaid and the conditions of that coverage before she provided the services in question.

In light of this, DVHA maintains that the provider will be in violation of her Medicaid agreement, and subject to sanction, if she bills the petitioner for any services that were not covered by insurance due to her failure to follow that agreement. However awkward or uncomfortable the above scenario may render the petitioner's future relationship with this provider, it must be concluded that DVHA cannot be required under the regulations to approve Medicaid payments

to providers under these circumstances. Inasmuch as there is no claim or showing that DVHA either failed to follow its regulations or was otherwise negligent in inducing either the provider or the petitioner into the rendering of the services in question, the Board is bound to affirm DVHA's decision in this case. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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